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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/364,220	07/29/1999	JAY SENIOR	200786	9117

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LEYDIG VOIT & MAYER LTD
TWO PRUDENTIAL PLAZA
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EXAMINER

CHUNG TRANS, XUONG MY

ART UNIT	PAPER NUMBER
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2181

DATE MAILED: 12/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/364,220

Applicant(s)

SENIOR ET AL.

Examiner

Xuong M. Chung-Trans

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

1. This application has been examined. Claims 1-37 are pending in this application.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Bertin et al. (U.S.Pat. No. 5,687,167).

Bertin discloses (fig.1) the invention substantially as claimed, comprising: intercepting a failure of a request by a first device to obtain bandwidth; requesting a rebalancing module to re-balance the existing bandwidth allocation to the plurality of devices connected the bus; utilizing an option to reset a particular device to release the entire particular bandwidth allocation as part of the rebalancing; and completing the rebalancing by the rebalancing module including a generation of optional messages. See col.12, lines 58 to col. 20, line 56.

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4. Claims 35-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Scheurich (U.S.Pat.No. 5,848,266).

Scheurich discloses an USB compliant device with dynamic bandwidth adjustment capability, wherein the device is capable of executing a command to change its current bandwidth setting to a specified bandwidth usage setting. See abstract.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bertin et al in view of Scheurich U.S.Pat. No. 5,848,266..

As per claims 2-4, 19-20, and 34-35, Bertin does not explicitly disclose that the bus is a usb and/or firewire bus. However, the use of usb or firewire bus is well known in the art as evidenced by Scheurich (see col. 5, lines 43 – 57). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to include the teaching Scheurich in the Bertin system in order to interconnect a plurality of devices to a computer system.

As per claims 5 and 9-10, Scheurich discloses a hub driver/host controller connected to the usb, makes the rebalancing request (col. 6, lines 30-53).

As per claims 6-8 and 31-33, it is well known in the art, that the method can be implemented using a user mode and/or kernel mode and window brand operation system.

As per claim 11, and 21, Bertin does not explicitly disclose the use of a pop up box to inform the user that the requested bandwidth is denied. However, the use of a pop up box to inform the user is well known in the art. Further, Bertin does disclose the use of the bandwidth message to inform the network's user whether the bandwidth request successful or fails (col. 13, lines 58-62).

As per claims 12-16, 22-30, and 36, Bertin discloses that the Policy includes that the bandwidth resource required by one request be preferred over other request (col. 13, line 63 to col. 14, line 4). Further, it is well known in the art that the good policy should be enforced when there is competition and demand.

As per claims 17-18, the use of resetting more than one device to release bandwidth would be a matter of choice and design.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xuong M. Chung-Trans whose telephone number is (703) 305-9772. The examiner can normally be reached on Monday-Friday from 9:30am to 2:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart, can be reached on (703) 305-4815. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 305-3900.



X.M.Chung-Trans



MARK W. BUEHART
SUPERVISORY PATENT EXAMINER
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